

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

File No. 88144-001

v

United Healthcare Insurance Company
Respondent

Issued and entered
This 23rd day of June 2008
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On February 26, 2008, XXXXX., authorized representative of XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on March 4, 2008.

The Commissioner notified United Healthcare Insurance Company (United Healthcare) of the external review and requested the information used in making its adverse determination.

The case presented a medical question so the Commissioner assigned it to an independent review organization (IRO), which provided its analysis to the Commissioner on March 18, 2008.

II
FACTUAL BACKGROUND

The Petitioner purchased coverage with United Healthcare under a student insurance plan through XXXXX University. The coverage was in effect from August 21, 2007, to January 7, 2008. This is a fully insured, nonrenewable term plan for which the master policy is

issued to the university. The students who purchase the insurance receive a coverage brochure that defines their benefits.

The Petitioner went to the doctor on September 5, 2007, and was diagnosed with a thyroglossal duct cyst. He was treated and eventually had surgery on November 1, 2007, to remove it.

United Healthcare denied coverage for this care, saying it is treatment of a congenital condition and therefore excluded. When the Petitioner appealed, United Healthcare reviewed the claim but upheld its denial. A final adverse determination was issued February 6, 2008.

III ISSUE

Is United Healthcare correct in denying coverage for treatment of the Petitioner's thyroglossal duct cyst?

IV ANALYSIS

Petitioner's Argument

XXXXX, who is the Petitioner's surgeon, argues that for United Healthcare to classify the Petitioner's thyroglossal duct cyst as either a preexisting condition or a congenital defect is unwarranted. He says that calling a thyroglossal duct cyst a congenital defect would be the same as calling hypercholesterolemia a congenital defect. Dr. Koegel believes that the cyst, while it is something that the Petitioner was born with, is something that anyone could have and would have no way of predicting. Dr. Koegel wonders if United Healthcare would call heart disease a congenital defect.

The Petitioner says that on multiple occasions United Healthcare was given information about his diagnosis but at no time did United Healthcare have the courtesy or decency to notify him or his doctor that the treatment for his thyroglossal duct cyst would not be covered. Instead, United

Healthcare let him incur the expense of treatment and surgery before telling him that the care would not be covered.

The Petitioner argues that United Healthcare should provide coverage for his thyroglossal duct cyst treatment because it was medically necessary.

United Healthcare Insurance Company's Argument

United Healthcare says that the coverage brochure given to insured students through XXXXX University details certain limitations and exclusions that must be applied to all claims. The brochure, under "Exclusions and Limitation," states (page 11):

No benefits will be paid for: a) loss or expense caused by, contributed to, or resulting from; or b) treatment, services or supplies for, at, or related to:

* * *

2. Congenital conditions, except as specifically provided for Newborn or adopted Infants.

United Healthcare says that the Petitioner's thyroglossal duct cyst is a congenital defect and therefore the claims for treatment of this condition were denied.

The initial claim forms from the Petitioner's doctor listed diagnosis code 784.2, "Swelling, mass, or lump in head and neck." Based on that diagnosis, those claims were processed and benefits were paid by United Healthcare.

Additional claims were filed with diagnosis code 759.2, "Anomalies of other endocrine glands...Thyroglossal (duct) cyst." Claims with this diagnosis were denied by United Healthcare because it considers the condition to be congenital and therefore excluded under the terms of the policy.

United Healthcare acknowledges that it received telephone calls from Dr. XXXXX's office requesting verification of policy benefits but says that all calls are prefaced by this disclaimer:

This is a statement of general policy provisions and not a guarantee of payment. All policy provisions, including limitations and exclusions, will be considered when processing any claim.

Commissioner's Review

In conducting this review under the Patient's Right to Independent Review Act, the Commissioner's role is limited to determining whether United Healthcare properly administered the Petitioner's health care claims under the terms of his coverage and state law. The Commissioner cannot address the Petitioner's allegation that United Healthcare misled him and his doctor because it did not tell him early on that treatment for a thyroglossal duct cyst would not be covered. The Commissioner lacks the authority to order relief based on doctrines such as estoppel.

The coverage brochure indicates that treatment of congenital conditions (except as provided for newborn or adopted infants) is excluded from coverage. Since the Petitioner is not an infant, the exceptions for congenital conditions do not apply.

United Healthcare concluded that the Petitioner's thyroglossal duct cyst was a congenital condition and denied benefits for treatment. The Petitioner and his doctor argue that the condition should not be considered a congenital condition. In reviewing adverse determinations that involve medical issues, the Commissioner requests an analysis and recommendation from an IRO. The IRO expert reviewing this case is a licensed physician who is board certified in otolaryngology, holds an academic appointment, and has been in practice for more than ten years.

The IRO reviewer is familiar with the medical management of patients with the Petitioner's condition and has reviewed the medical record and the arguments presented by the parties. The IRO reviewer noted that while a thyroglossal duct cyst may present later in life, it is considered to be congenital in nature. The IRO reviewer concluded that the treatment that the Petitioner received from September 5, 2007, to December 12, 2007, was for a congenital condition.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner; it is based on extensive expertise and professional judgment. The Commissioner can discern no reason why that judgment should be rejected in the present case. Therefore, the Commissioner accepts the

conclusion of the IRO reviewer and finds that the treatment of the Petitioner's thyroglossal duct cyst is treatment of a congenital condition and is not a covered benefit under the policy.

The Commissioner finds that United Healthcare correctly applied the provisions of the Petitioner's policy.

V ORDER

The Commissioner upholds United Healthcare Insurance Company's adverse determination of February 6, 2008. United Healthcare is not required to provide coverage for the Petitioner's treatment of a thyroglossal duct cyst.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.